## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

MARQUISE MILLER,	)	
Plaintiff,	) ) )	
v.	) Case No. CIV-20-94	6-D
LEGACY BANK, an Oklahoma State Banking Corporation,	)	
Defendant.	) )	

## **ORDER**

Before the Court is Plaintiff's Motion to Leave and File Second Amend Complaint and Second Amended Complaint [Doc. No. 18]. The Motion is unopposed. Plaintiff seeks to amend his original pleading to "make more concise understanding of the Complaint in facts and issues." [Doc. No. 18] at 1.

"[T]he grant of leave to amend the pleadings pursuant to Rule 15(a) is within the discretion of the trial court." *Zenith Radio Corp. v. Hazeltine Research Inc.*, 401 U.S. 321, 330 (1971). Rule 15 states that "leave shall be freely given when justice so requires." FED. R. CIV. P. 15(a). The purpose of the Rule is to provide litigants "the maximum opportunity for each claim to be decided on its merits rather than on procedural niceties." *Minter v.* 

<sup>&</sup>lt;sup>1</sup> Plaintiff moved to amend the original pleading on December 10, 2020. [Doc. No. 8]. Defendant responded on December 11, 2020 [Doc. No. 9], and subsequently filed its Motion to Dismiss [Doc. No. 10] on December 21, 2020. In light of the Court granting the instant Motion, the first Motion to Amend [Doc. No. 8] is now moot.

*Prime Equip. Co.*, 451 F.3d 1196, 1204 (10th Cir. 2006). Considered under this standard, and for good cause shown, Plaintiff's Motion is **GRANTED.** 

Having granted the Motion, the pending motion to dismiss [Doc. No. 10] the original pleading is moot. *See, e.g., Essex Ins. Co. v. Sheppard & Sons Constr., Inc.*, No. CIV-12-1022-D, 2015 WL 11752917, at \*10 n.16 (W.D. Okla. July 9, 2015) (referencing an earlier order that denied "[a defendant's] motion to dismiss as moot due to filing of amended complaint which supersedes original complaint and renders it of no legal effect"); *Strich v. United States*, No. 09-cv-01913-RBJ-KLM, 2010 WL 148269, at \*1 (D. Colo. Jan. 11, 2010) ("The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded."); *AJB Props., Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, No. 09-2021-JWL, 2009 WL 1140185, at \*1 (D. Kan. Apr. 28, 2009) (finding that an amended complaint superseded an original complaint and "accordingly, defendant's motion to dismiss the original complaint [was] denied as moot"); *accord Baca v. Quick Bail Bond & Tax Serv.*, No. CV 18-16 JCG/GBH, 2018 WL 3862744, at \*1 (D.N.M. Aug. 14, 2018).

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend [Doc. No. 18] is **GRANTED.** Plaintiff shall file an Amended Complaint within fourteen (14) days of this Order.

**IT IS FURTHER ORDERED** that Defendant's Motion to Dismiss [Doc. No. 10] and the first Motion to Amend [Doc. No. 8] are **DENIED AS MOOT.** 

IT IS SO ORDERED this 11th day of March, 2021.

TIMOTHY D. DeGIUSTI

Chief United States District Judge